

**A000DE4**  
**RICHARD RUBENSTEIN - February 22, 2006**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

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KIMBERLY ALLEN, Personal  
Representative of the ESTATE OF  
TODD ALLEN, Individually, on Behalf  
of the ESTATE OF TODD ALLEN, and on  
Behalf of the Minor Child PRESLEY GRACE  
ALLEN,

Plaintiff,

vs. No. 304-CV-0131 (JKS)  
UNITED STATES OF AMERICA,  
Defendants.

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DEPOSITION OF RICHARD A. RUBENSTEIN, M.D.  
February 22, 2006

RICHMOND, CA

Reported by:  
DANUTA KRANTZ  
CSR NO. 4782

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1    **conduction studies?**

2        A. Correct.

3        **Q. Then you have a special interest in**  
4    **traumatic brain injury?**

5        A. In cognitive neurology.

6        **Q. In cognitive --**

7        A. Or behavioral neurology.

8        **Q. Do you know how it was that you**  
9    **were selected to be an expert witness in this**  
10 **case?**

11       A. No.

12       **Q. What were you asked to do in this**  
13 **case?**

14       A. I was asked to review all of the  
15 records, depositions, et cetera, and formulate an  
16 opinion.

17       **Q. An opinion about what?**

18       A. About causation. In other words,  
19 whether Mr. Allen's subarachnoid hemorrhage was  
20 representative of a condition that could have  
21 reasonably been prevented had it been diagnosed in  
22 a timely fashion.

23       **Q. All right. And let me ask you**  
24 **this. What, in your training, practice,**  
25 **education, do you think allows you the background**

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1 **the country or are there particular areas that --**  
 2 **where you mainly are doing expert work?**

3 A. Well, most, I would say, of the  
 4 cases that I have worked on pretty much have been  
 5 west of the Mississippi.

6 **Q. Have you ever had any training in**  
 7 **emergency medicine?**

8 A. Well, not emergency medicine. You  
 9 mean like treating heart attacks and pulmonary  
 10 emboli and --

11 **Q. Like doing ER work?**

12 A. Well, I mean, I did ER work as an  
 13 intern, and I'm thoroughly familiar with  
 14 neurologic emergencies, but in terms of any  
 15 ongoing work as an emergency room physician, let's  
 16 say, no, I have not done that.

17 **Q. Let me ask this. Is emergency**  
 18 **medicine a specialty within medicine?**

19 A. Yes.

20 **Q. Do doctors or medical students that**  
 21 **want to become doctors actually do residencies in**  
 22 **emergency medicine?**

23 A. Yes.

24 **Q. Have you done a residency in**  
 25 **emergency medicine?**

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1 A. Or I was on the emergency room  
 2 panel and I would be called in to see, you know, a  
 3 new acute patient that was just presenting himself  
 4 in the emergency room.

5 **Q. Are you doing that sort of work**  
 6 **now?**

7 A. No.

8 **Q. When were you doing that?**

9 A. The last emergency room work, per  
 10 se, that I did was about 1997. So it was -- I  
 11 stopped doing that essentially nine years ago.

12 **Q. When you were doing it, if you**  
 13 **could describe for me what that practice was like**  
 14 **then before 1997.**

15 A. Well, in -- I had two associates,  
 16 one of whom I still have. And we covered an area  
 17 of a half a million people in this area. And we  
 18 were the only neurologists for half a million  
 19 people. So, bigger than Anchorage.

20 And so we were extremely busy. And we  
 21 covered two hospital emergency rooms in this area  
 22 for neurology -- neurologic issues.

23 **Q. For neurologic consults?**

24 A. Yes.

25 **Q. So the emergency doctor would maybe**

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1 A. No.

2 **Q. When you talk about neurological**  
 3 **emergencies, if you could just give me an example**  
 4 **what that would be.**

5 A. Yeah. Like subarachnoid  
 6 hemorrhage, intracerebral hemorrhage, myasthenic  
 7 crises, traumatic brain injury.

8 **Q. Have you ever worked in an**  
 9 **emergency room setting, I mean, aside from being**  
 10 **in medical school?**

11 A. Well, I have -- maybe what you are  
 12 confused about is, I have been in emergency rooms  
 13 hundreds and hundreds of times consulting on my  
 14 patients, you know, when I was doing hospital  
 15 work.

16 But in terms of working in an emergency  
 17 room and treating colds and sniffles looking in  
 18 eardrums and that kind of thing, I have never done  
 19 that.

20 **Q. Actually, that's what I do want to**  
 21 **understand, the hospital work, the work you have**  
 22 **done in emergency rooms.**

23 **Is that something where you would be**  
 24 **called to an emergency room because one of your**  
 25 **patients has presented in the emergency room?**

10 (Pages 34 to 37)

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1 Q. I am saying -- I am just asking if  
2 a patient has been diagnosed with a subarachnoid  
3 hemorrhage, if their chances for rebleeding are  
4 really -- let me ask it a little bit differently.  
5 Sorry. Let me back up.

6 If you have got a patient who has got a  
7 subarachnoid bleed and it's been diagnosed, aren't  
8 their chances of rebleeding less if they are  
9 actually in a neurointensive care unit than if  
10 they're discharged home --

11 A. Of course. Yes.

12 Q. -- without being monitored?

13 A. Sure.

14 Q. Do you know whether or not the  
15 majority of patients who present to an emergency  
16 department with a subarachnoid hemorrhage are  
17 operated on within the first 24 hours?

18 A. Well, that is a very generalized  
19 question. It really is highly dependent on where  
20 they present to. As I said, you know, the  
21 mortality of subarachnoid hemorrhage under optimum  
22 circumstances is about 50 percent. And as I said,  
23 about ten percent of subarachnoid hemorrhage cases  
24 die before they ever hit the hospital or receive  
25 medical care.

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1 So of those that hit the hospital and  
2 are seen, depends where they hit the hospital. If  
3 they are in some rural environment where they  
4 don't have access to neurosurgery or to, you know,  
5 significant technology, no, surgery would be  
6 delayed perhaps for days.

7 And if they present to UCSF or the  
8 University of Washington emergency room, surgery  
9 probably would be the same day they had -- or to  
10 Mass. General Hospital, they probably would have  
11 surgery the same day that the aneurysm was  
12 diagnosed, if it was surgically accessible, by the  
13 way.

14 Q. Right. Let me follow up on a  
15 couple of things you just said.

16 First of all, did you say that 50  
17 percent of people that have a subarachnoid  
18 hemorrhage die?

19 A. Yes.

20 Q. Is that --

21 A. Whether they received optimum  
22 treatment or not.

23 Q. Is that 50 percent of the entire  
24 population of people with subarachnoid hemorrhages  
25 or is that the people that show up --

19 (Pages 70 to 73)

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